

UTAH RADIATION CONTROL BOARD

MINUTES OF THE UTAH RADIATION CONTROL BOARD MEETING, October 4, 2002, Department of Environmental Quality (Bldg. #2), Conf. Room 101, 168 North 1950 West, Salt Lake City, Utah.

BOARD MEMBERS PRESENT

Stephen T. Nelson, Ph.D., Chairman
Gary L. Edwards, M.S., Vice Chairman
William J. Sinclair, M.S.E.H., Executive Secretary
Kent J. Bradford, P.G.
Thomas K. Chism, M.S.
Rod O. Julander, Ph.D.
Linda M. Kruse, M.S.
Karen S. Langley, M.S.
Dianne R. Nielson, Ph.D.
Gregory G. Oman, D.D.S., B.S.
John W. Thomson, M.D.
Gene D. White, Commissioner

BOARD MEMBERS ABSENT/EXCUSED

None

DRC STAFF/OTHER DEQ MEMBERS PRESENT

Karen Best, DRC Staff
Clark Clements, DRC Staff
Jule Fausto, DRC Staff
Dane Finerfrock, DRC Staff
Gwyn Galloway, DRC Staff
John Hultquist, DRC Staff
Boyd Imai, DRC Staff
Craig Jones, DRC Staff
Laura Lockhart, Utah Attorney General's Office
Chris Morley, Utah Attorney General's Office
Loren Morton, DRC Staff
Ray Nelson, DRC Staff
Fred Nelson, Utah Attorney General's Office
Yoli Shropshire, DRC Staff

PUBLIC

Kenneth L. Alkema, Envirocare of Utah, Inc.
Melissa Barell, LLGM
Gregory H. Copeland, Greenfield Logistics

Brian Clayman, Envirocare of Utah, Inc.
Kim Demille, Utahns Against Unfair Taxes
Steve Erickson, CEP
Judy Fahys, Salt Lake Tribune
Jason Groenewold, FAIR

Joe Heckman, Envirocare of Utah, Inc.
Jim Holtkamp, LeBoeuf, Lamb, Greene
& McCrae LLP (LLGM, LLP)

Adam Jones, Envirocare of Utah, Inc.
Charles Judd, Private Citizen
Cindy King, Utah Chapter, Sierra Club
Mark Ledoux, Envirocare of Utah, Inc.
Sean McCandless, Envirocare of Utah, Inc.
Patrick Malone, LLGM
Teresa Parker, Envirocare of Utah, Inc.
Mitchell Rehmann, IUC (USA)
Bob Reifsynder, Envirocare of Utah, Inc.
Bret Rogers, Envirocare of Utah, Inc.
Dan Shrum, Envirocare of Utah, Inc.
Dane Thomas, Envirocare of Utah, Inc.
Patrick Thomas
Tye Rogers, Envirocare of Utah, Inc.
Jay Vance, Envirocare of Utah, Inc.

GREETINGS/MEETING CALLED TO ORDER

The Utah Radiation Control Board convened in DEQ Building #2, Room 101, 168 North 1950 West, in Salt Lake City, Utah. The meeting was called to order at 1:05 p.m. by Dr. Stephen T. Nelson, Chairman of the Board. Dr. Nelson welcomed all members and public attending the meeting. Dr. Nelson stated to those present, if they wished to address any items on the agenda to indicate it on the sheet as they signed in. Those desiring to comment would be given a chance to address their concerns on the agenda items to the Board.

I. APPROVAL OF MINUTES (Board action item)

a. Approval of September 6, 2002, Minutes

Stephen Nelson, Chairman asked for any corrections to the minutes of October 4, 2002, from the Board Members. The following Board Members had corrections to the minutes:

Linda Kruse, proposed the following changes to the minutes:

1. Page 5, Item IV.a., under subtitle "Discussion by Board Members," second paragraph, first sentence, which reads: "Rod Julander made a motion to **established** the subcommittee . . ." should be changed to read: Rod Julander made a motion to **establish** the subcommittee . . ."

Tom Chism proposed the following changes to the minutes:

2. Page 9., Item V.d., under subtitle, Comments from Parties, Jason Groenewold, FAIR, first paragraph, first sentence which reads: “Jason indicated that he would **liked** the Board to view . . .” should be changed to read: “Jason indicated that he would **like** the Board to view . . .”

Linda Kruse, made a motion to approve the minutes of October 4, 2002, as amended, seconded by Tom Chism.

CARRIED AND APPROVED UNANIMOUSLY

II. RULES

- a. **Changes to repropoed rules R313-19-2 and R313-24 relating to uranium mills and uranium mill tailings disposal facility requirements - final approval (Board action item)**

Bill Sinclair stated that opportunity for public comment on proposed rules, R313-19-2, "Requirements of General Applicability to Licensing of Radioactive Material" and R313-24, "Uranium Mills and Source Material Mill Tailings Disposal Facility Requirements" was previously noticed in the Salt Lake Tribune and The Deseret News on May 15, 2002 and an extension on receipt of comments for these particular rules were granted until June 28, 2002. Following the end of the public comment period, the Division of Radiation Control examined all comments relating to these rules and prepared a written response. Some of the suggested changes as a result of the comments were substantive and required that the rules be repropoed.

Public notice of the proposed rulemaking was published in the August 15, 2002 edition of the Salt Lake Tribune and The Deseret News, and the August 14, 2002 edition of the Moab Times-Independent, and the Blue Mountain Panorama (Blanding). The comment period on repropoed rules R313-19-2 and R313-24 opened August 15, 2002 and closed September 16, 2002. One written comment was received and a response to comments prepared (comment and response to comments were included in the packet). He recommended that the Board give final approval to the changes to the proposed rules, R313-19-2 and R313-24, and set the effective date as October 7, 2002.

Kent Bradford, made a motion to give final approval to the proposed rules, R313-19-2 and R313-24, and set the effective date as October 7, 2002, seconded by Greg Oman.

CARRIED AND APPROVED UNANIMOUSLY

- b. **Change of effective dates for changes to proposed rules R313-17-2(1)(a) and R313-70-7(2)(b)(c)(d)(e) (Board information item)**

Bill Sinclair reported that he attempted to file repropoed rules, R313-17-2(1)(a) and R313-70-7(2)(b)(c)(d)(e), on the date that the Board made the rules effective (September 10) but the Administrative Rules electronic filing system was down. As such, once the system was back in operation, he went in and set the effective date for these rules, which was the date, the system came back on line (September 12). So the actual effective date for these rules is September 12, 2002.

III. RADIOACTIVE MATERIALS LICENSING/INSPECTION

No items

IV. X-RAY REGISTRATION/INSPECTION

No items

V. RADIOACTIVE WASTE DISPOSAL

a. Summary of Low-Level Waste Forum Meeting, September 23-24, 2002, Sacramento, CA (Board information item)

Bill Sinclair pointed out that in the Board packet is a copy of an agenda from the meeting. Significant issues discussed including the long and ongoing litigation between the State of Nebraska and the Central Compact regarding the denial of a license for the Nebraska facility and issues surrounding that denial and the State of North Carolina and the Southeastern Compact for North Carolina's failure to develop a low-level waste facility as required. There were also facility updates and for Envirocare, the ongoing hearing process and the citizen initiative were discussed. There was also an update on two NAS studies: Control of Release of Solid Materials and Improving Practices for the Regulation and Management of Low-Level Waste.

b. Adjustments to scheduling of hearing date for FAIR's request for Agency Action in the matter of the license to Envirocare to accept and dispose of Containerized Class A, B, and C low-level radioactive waste (License No. UT2300249-BC) - Laura Lockhart/Fred Nelson (possible Board Action Item)

Fred Nelson said that during the week of October 1-4, 2002, that his office had received a request from Envirocare that the hearing dates set for October 31, 2002 to November 1, 2002, be moved. Fred then asked Envirocare to present their request and indicated that FAIR had joined in the motion.

Patrick Malone, Attorney for Envirocare apologized to the Board for asking to reschedule the hearing. They believed that all of their scheduling conflicts had been cleared up, but that being so close to the election in November, it would be difficult getting some of the key personnel at the hearing as presently scheduled.

He further indicated that he had spoken to the Executive Secretary, Bill Sinclair and FAIR regarding the possible change of date. He stated that the Executive Secretary had not taken a position on the motion and FAIR had agreed to join in the motion although they had not filed anything. He encouraged the Board to reschedule the hearing at the convenience of the Board during the month of November following the election.

Rod Julander made a motion that the Board reschedule the hearing for one day on November 19, 2002, seconded by Kent Bradford.

CARRIED AND APPROVED UNANIMOUSLY

Fred Nelson asked Jason Groenewold representing FAIR, Jim Holtkamp representing Envirocare and Laura Lockhart representing the Executive Secretary if they wanted to move the date for filing the pre-hearing documents to November 1, 2002. All parties agreed on the date. No action was required on this by the Board as indicated to Board members by Fred Nelson. Fred indicated that if it was acceptable to Stephen Nelson, the appointed Presiding Officer, that was all that was necessary. Stephen Nelson indicated that he agreed with the extension date.

VI. URANIUM MILL TAILINGS UPDATE (Board information items)

No items

VII. OTHER DEPARTMENT ISSUES

a. Public notice of 2004 fiscal year DEQ fee schedule comment and hearing (Board information item)

Bill Sinclair was asked by the Department to inform the Board that public comment commenced on September 24, 2002 on the Department of Environmental Quality fee schedule for FY2004. He indicated that a public hearing was scheduled for 1:00 p.m. in Room 101 on October 24, 2002 regarding the DEQ fee schedule. He indicated that there were no major changes to the Division of Radiation Control fee schedule for FY2004 (which begins July 1, 2003).

b. National Radon Action Week, October 20-26,2002 (Board information item)

John Hultquist provided the Board some information regarding efforts of the Radon program:

1. 2002 Radon and the Real Estate Professional Courses:

There were 21 persons that attended the course in Provo and 45 attended the course in Salt Lake City for a total attendance of 66 persons.

2. Radon Measurement Providers -11

3. Radon Mitigation Providers - 7

A Radon Measurement Class was conducted October 4-5, 2002 with 6 individuals attending the training class.

4. Radon Resistant New Construction (RRNC)

DRC staff attended the Home Builders Association of Utah Convention and Trade Show on March 14-16, 2002 and set up a booth at the convention and seminar on March 15, 2002. Approximately 20 builders attended the seminar. There was a

RRNC presentation to Richmond American Homes in Salt Lake City on September 16, 2002.

5. Mini Grant – RRNC

A grant was awarded to Alpine Applied Technology Education, Alpine School District, Utah County to build a home in American Fork incorporating RRNC features. John Hultquist will be presenting information regarding this mini grant activity at the National Radon Conference in Reno, NV at the end of October 2002.

6. Mini Grant - Public Awareness

Realtors were educated regarding radon in Tooele, Richfield, Salt Lake, Utah County, and Park City. In January 2002, the Salt Lake Tribune ran an article on page 1 of the Utah section regarding radon mitigation. Channel 4 news (ABC) interviewed both Kurt Solomon and John Hultquist. KALL radio 910, Tom Barberi show, had a 10 minute interview with Kurt Solomon regarding radon. Overall, DRC educated approximately 350 realtors, and had three general media contacts with television, radio and newspapers.

7. Information provided to the EPA as part of the Performance Partnership Agreement and Grant (PPA/PPG)

Homes tested – 1,350

Home Mitigations conducted – 150

RRNC – 6 to 8 homes based on one homebuilder who responded to the request for information.

Public Outreach - 10 out of the 12 Local Health Departments conduct outreach activities throughout the year.

8. Radon Action Week Activities

DRC will put out a press release encouraging Utah homeowners to test for radon and indicating where citizens can obtain information regarding radon gas.

**c. Citizen initiative - Radioactive Waste Restrictions Act –
TIME CERTAIN - 1:30 p.m.**

Stephen Nelson indicated that as agreed to at the last Board meeting, both the proponents and opponents of the initiative would have 45 minutes to present information to and take questions from Board members. He indicated that the proponents of the initiative had declined a request to attend and present information. The letter from the proponents declining the Board request was provided to members prior to the meeting. Since there were no proponents present to provide Board members with their view, the opponents were invited to present information to the Board.

Hugh Matheson, Chairman for Utahns Against Unfair Taxes, provided information to Board members regarding the position against the initiative.

Discussion/action by Board members

Following Mr. Matheson's presentation and upon questions to Mr. Matheson and to Jason Groenewold of FAIR regarding their perspective positions on the initiative, the Board discussed various action possibilities.

Kent Bradford made the motion that the Board designate the Executive Secretary to draft a Position Statement incorporating comments provided by Board members regarding Initiative 1, seconded by Karen Langley

A roll call vote was conducted by Chairman Nelson as follows: (yes = for drafting a position statement)

Gene White – Yes
Rod Julander – Yes
Tom Chism – No
Kent Bradford – Yes
John Thomson – Yes
Dianne R. Nielson – Abstain

Stephen Nelson – Yes
Gary Edwards – Yes
Karen Langley – No
Greg Oman – Yes
Linda Kruse – Yes

THE MOTION CARRIED BY A VOTE OF 8-2 WITH ONE ABSTENTION BY DIANNE R. NIELSEN

Bill Sinclair indicated that he would provide a draft position statement to Board members for consideration shortly. Once Board members had a chance to review the position statement and offer comments, he indicated that he would set up a teleconference for a final decision on the draft position statement prior to the election. The teleconference would be publicly noticed and a meeting room provided so that members of the public could observe the call if desired.

VIII. PUBLIC COMMENT

No comments were offered by the public.

IX. OTHER ISSUES

a. Next Board Meeting

The next Board meeting will be a teleconference on the position statement. Since there was a hearing to determine appeal on license issued to Envirocare to accept containerized Class A, B, and C low-level radioactive waste already scheduled for November 19, 2002, the Board decided to defer business to the December 6, 2002 regularly scheduled meeting. There will be no meeting on November 1, 2002.

The Board meeting adjourned at 4:40 p.m.